

100TH CONGRESS
1ST SESSION

H. R. 3602

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 16, 1977

Mr. SEIBERLING introduced the following bill; which was referred to the Committee on Interior and Insular Affairs

A BILL

To establish a national policy for the preservation of historic, architectural, archeological, and cultural resources, to establish a coordinated national historic preservation program, and for other purposes.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 That this Act may be cited as the "National Historic Preser-
- 4 vation Policy Act of 1977".

I

FINAL ACTION

1 TITLE I

2 DECLARATION OF NATIONAL HISTORIC PRESERVATION

3 POLICY

4 SEC. 101. The Congress, recognizing the importance of
5 the existing elements of our national heritage to the mainte-
6 nance and continuing development of human life and the
7 American society, declares that it is the duty and continuing
8 policy of the Federal Government, in cooperation with other
9 nations, the States, and local communities, and private orga-
10 nizations and individuals—

11 (1) to develop and use means and measures, in-
12 cluding financial and technical assistance, for the pur-
13 poses of fostering and promoting conditions under which
14 our modern society and our heritage can exist in produc-
15 tive harmony and can fulfill the social, economic, and
16 other requirements of present and future generation.

17 (2) to provide leadership in the preservation and
18 conservation of the historic, architectural, archeological,
19 and cultural properties of the United States and of the
20 international community of Nations;

21 (3) to administer federally owned or controlled
22 historic and cultural properties in a spirit of stewardship
23 and trusteeship for the benefit of present and future
24 generations; and

25 (4) to administer the national historic preservation

program in partnership with the States and to insure that Federal policies, plans, programs, activities, and projects (A) contribute to the preservation and conservation of nonfederally owned historic and cultural properties, (B) are coordinated with State, community, and private activities to preserve and conserve historic and cultural properties, and (C) contribute to the preservation of significant historic and cultural properties of other Nations.

TITLE II

NATIONAL HISTORIC PRESERVATION PROGRAM

SEC. 201. To facilitate the effective implementation of the National Historic Preservation Policy, set forth in title I of this Act, and to provide further for coordinated Federal efforts—

(1) the Advisory Council on Historic Preservation, as established by section 201 of the Act entitled “An Act to establish a program for the preservation of additional historic properties throughout the Nation, and for other purposes”, approved October 15, 1966 (80 Stat. 917; 16 U.S.C. 470i), is renamed the Council on Historic Preservation, and the Chairperson and Vice Chairperson of the Council shall be appointed by the President with the advice and consent of the Senate;

(2) the provisions of the following acts which re-

1 late to the historic preservation responsibilities of the
2 Secretary and the National Park Service, except as
3 they may be related to management of lands, waters, or
4 interests therein of the National Park System or other
5 lands, waters, or interests therein, under the jurisdiction
6 or control of the Secretary are to be administered by the
7 Council:

8 (A) The Act entitled "An Act to provide for
9 the preservation of historic American sites, build-
10 ings, objects, and antiquities of national significance,
11 and for other purposes", approved August 21, 1935
12 (49 Stat. 666; 16 U.S.C. 461 et seq.).

13 (B) Section 203 (k) (3) of the Federal Prop-
14 erty and Administrative Services Act of 1949 (40
15 U.S.C. 484 (k) (3)).

16 (C) Section 7 of the Act entitled "An Act to
17 provide for the disposition, control, and use of sur-
18 plus real property acquired by Federal agencies,
19 and for other purposes", approved August 27, 1935
20 (49 Stat. 885; 40 U.S.C. 304a-2).

21 (D) The Act entitled "An Act to further the
22 policy enunciated in the Historic Sites Act and to
23 facilitate public participation in the preservation of
24 sites, buildings, and objects of national significance
25 or interest and providing a national trust for his-

1 toric preservation”, approved October 26, 1949 (63
2 Stat. 927; 16 U.S.C. 468 et seq.).

3 (E) The Act entitled “An Act to provide for
4 the preservation of historical and archeological data
5 (including relics and specimens) which might other-
6 wise be lost as a result of the construction of a dam”,
7 approved June 27, 1960 (74 Stat. 220; 16 U.S.C.
8 469).

9 (F) The Act of October 15, 1966, referred
10 to in paragraph (1).

11 (G) Section 2124 of the Tax Reform Act of
12 1976 (90 Stat. 1916–1920).

13 (H) The provisions of section 8 (relating to
14 the National Register of Historic Places) of the
15 Act entitled “An Act to improve the administra-
16 tion of the National Park System by the Secretary
17 of the Interior, and to clarify the authorities appli-
18 cable to the system, and for other purposes”, ap-
19 proved August 18, 1970 (84 Stat. 825; 16 U.S.C.
20 17d).

21 SEC. 202. In furtherance of the Convention Concerning
22 the Protection of the World Cultural and Natural Heritage
23 (hereinafter in this Act referred to as “the World Heritage
24 Convention”), approved by the Senate on October 26, 1973,

1 and other international cultural heritage activities, the Coun-
2 cil shall—

3 (1) coordinate United States participation, in co-
4 operation with the Department of State, in the World
5 Heritage Committee; and

6 (2) establish a program to nominate historic and
7 cultural properties of universal significance to the World
8 Heritage Committee on behalf of the United States:
9 *Provided*, That no such nominations shall be executed by
10 the Council pursuant to this subsection until sixty days
11 after notification of the Speaker of the House of Rep-
12 resentatives and the President pro tempore of the Senate
13 of the intended action: *And provided further*, That
14 each such nomination shall include evidence of adequate
15 legal protection to insure preservation of the property
16 and its environment, which may include appropriat
17 statutory protections or recommendations as to those
18 protections that would require further congressional
19 action.

20 SEC. 203. In addition to the duties set forth in section
21 202, the Council shall—

22 (1) expedite action on determinations of eligibility
23 for, and nominations to, the National Register of His-
24 toric Places of any properties proposed for sale, transfer,

1 demolition, or substantial alteration as a result of action
2 by any Federal agency;

3 (2) develop and make available to Federal agen-
4 cies, State and local governments, private organizations
5 and individuals, and other nations and international or-
6 ganizations pursuant to the World Heritage Convention,
7 training in, and information concerning, administrative,
8 legal, and professional methods and techniques for the
9 preservation, rehabilitation, restoration, and mainte-
10 nance of historic and cultural properties;

11 (3) advise, and provide or arrange for technical
12 assistance to, Federal departments and agencies, State
13 and local governments, private organizations and indi-
14 viduals, and other Nations and international organiza-
15 tions in furtherance of the World Heritage Convention,
16 in the identification, evaluation, preservation (including
17 maintenance, rehabilitation, adaptive use, and restora-
18 tion), and protection of historic and cultural properties;

19 (4) review and evaluate the plans of transferees of
20 surplus Federal properties transferred for historic monu-
21 ment purposes to ensure that the historical, architec-
22 tural, archeological or cultural significance will be pre-
23 served in the rehabilitation, restoration, improvement,

1 adaptive use, maintenance, and repair of such proper-
2 ties;

3 (5) establish and maintain a program, in coopera-
4 tion with the National Trust for Historic Preservation,
5 chartered by Congress by the Act of October 26, 1949,
6 referred to in section 201 (2) (E), for the emergency
7 acquisition of real and personal property, or any
8 interests therein, included in the National Register
9 and threatened with immediate demolition or impair-
10 ment: *Provided*, That (A) when the Council deter-
11 mines that such acquisition is in the public interest and
12 will further national preservation policy as provided
13 herein, the Attorney General shall, if necessary, institute
14 condemnation proceedings on behalf of the National
15 Trust for Historic Preservation, in which title will vest,
16 and (B) upon acquisition of a property interest pursuan-
17 to this subsection, the National Trust for Historic Pres-
18 ervation shall attempt to convey such interest to any
19 governmental or nongovernmental entity under such
20 conditions as will ensure the property's continued pres-
21 ervation and use, except that if, after a reasonable
22 time, the National Trust for Historic Preservation, with
23 the approval of the Council, determines that there is no
24 feasible and prudent means to transfer such property and
25 to ensure its continued preservation and use for the pub-

1 lic benefit, then the National Trust for Historic Preserva-
2 tion may convey the property at the fair market value
3 of its interest in such property to any entity without
4 restriction;

5 (6) annually report to the President and the Con-
6 gress on the national historic preservation program and
7 on current and emerging problems of preserving and
8 conserving historic and cultural properties; such report
9 shall include the Council's evaluation of the effectiveness
10 of the programs of Federal departments and agencies
11 and the States for carrying out the purposes of this Act;
12 and shall also include an analysis of the accomplish-
13 ments of the Historic Preservation Fund for the period
14 reported and any recommendations which the Council
15 determines are necessary to improve the operation of
16 the fund and the national historic preservation program;

17 (7) establish criteria, guidelines, and standards to
18 be applied by Federal agencies and the States in the
19 implementation of this Act, and establish such rules and
20 regulations as are necessary to carry out the purposes
21 and provisions of this Act.

22 SEC. 204. (a) All Federal agencies shall, in accordance
23 with guidelines, standards, criteria, and procedures estab-
24 lished by the Council—

25 (1) survey, inventory, and nominate to the National

1 Register, in cooperation with the appropriate State his-
2 toric preservation officer, all districts, sites, buildings,
3 structures, and objects which appear to meet the criteria
4 for inclusion in the National Register and are under the
5 jurisdiction or control of such agency; priority shall be
6 given to any properties or areas which may be affected
7 by any Federal, federally assisted, or federally licensed
8 undertaking: *Provided*, That such survey and inventory
9 activities shall be coordinated with statewide surveys and
10 preservation plans: *And provided further*, That if the
11 agency and the appropriate State historic preservation
12 officer cannot agree on whether a property may meet the
13 criteria, the agency or State historic preservation officer
14 shall refer the matter to the Council for final decision
15 within forty-five days after receipt of the referral;

16 (2) in cooperation with the appropriate State his-
17 toric preservation officer, survey, inventory, and deter-
18 mine initially the eligibility for inclusion in the National
19 Register of nonfederally owned historic and cultural
20 properties that may be affected by any Federal, federally
21 assisted, or federally licensed undertaking under the direct
22 or indirect jurisdiction of the agency: *Provided*, That
23 such survey and inventory activities shall be coordinated
24 with statewide surveys and preservation plans: *And*
25 *provided further*, That if the agency and the appropriate

1 State historic preservation officer cannot agree on
2 whether a property may meet the criteria for inclusion
3 in the National Register, the agency or State historic
4 preservation officer shall refer the matter to the Council
5 for final decision within forty-five days after receipt of
6 the referral;

7 (3) initiate measures and procedures to insure that,
8 after compliance with section 106 of the Act of Octo-
9 ber 15, 1966 (referred to in section 201 (1) of this Act),
10 where, as a result of the action or assistance of an agency,
11 a property included in, or eligible for inclusion in the
12 National Register is to be substantially altered or de-
13 stroyed, timely steps are taken to make, or have made,
14 records of the property;

15 (4) cooperate with purchasers and transferees of
16 any property included in, or eligible for inclusion, in the
17 National Register in the development of plans for uses
18 of such property that are compatible with preservation
19 and conservation objectives without imposing unreason-
20 able economic burden on public or private interests; and

21 (5) assume responsibility for the preservation,
22 maintenance, rehabilitation, renovation, adaptive use,
23 and restoration of properties included in, or eligible for
24 inclusion in, the National Register of Historic Places
25 under their jurisdiction or control in accordance with

1 criteria and standards developed by the Council in con-
2 sultation with the National Park Service and the Gen-
3 eral Services Administration; and develop a plan for the
4 future use of such properties, in consultation with the
5 Council.

6 (b) Notwithstanding any other provision of law, the
7 Secretary, through the National Park Service, shall study
8 and investigate properties included in the National Register
9 which are under the jurisdiction or control of other Federal
10 agencies and from time to time shall report and recommend,
11 with the concurrence of the Council, to the Speaker of the
12 House and the President pro tempore of the Senate that the
13 administrative jurisdiction or control of such properties be
14 transferred to the Secretary. One hundred and eighty days
15 after the date on which any such report or recommendation
16 has been submitted, and with the concurrence of the Director
17 of the Office of Management and Budget, the head of the
18 agency exercising administrative jurisdiction or control over
19 the property shall transfer jurisdiction over the property, to-
20 gether with all funds and personnel available for the develop-
21 ment, maintenance, and interpretation thereof, as may be
22 determined by the Director of the Office of Management and
23 Budget, to the Secretary. Property so transferred shall be
24 administered by the Secretary as a unit of the National Park
25 System in accordance with the Act of August 25, 1916 (35

1 Stat. 535), and in accordance with such cooperative agree-
2 ments as the Secretary and the head of the transferring
3 agency may determine to be necessary or desirable for the
4 continued use, if any, of such property by the transferring
5 agency in a manner consistent with preservation of the his-
6 torical, architectural, archeological, or cultural characteristics
7 that qualified it for inclusion in the National Register.

8 SEC. 205. (a) The Council shall, within eighteen months
9 after the effective date of this Act, submit a report to the
10 President and the Congress on preserving and conserving the
11 intangible elements of our cultural heritage. This report shall
12 include recommendations for legislative and administrative
13 action by the Federal Government to encourage the continua-
14 tion of the diverse traditional historic, ethnic, and cultural
15 activities that underlie our American heritage.

16 (b) The Council shall submit a report to the President
17 and the Congress by January 1, 1981, reviewing the opera-
18 tion of the Historic Preservation Fund and the national his-
19 toric preservation program for the preceding four fiscal years
20 and recommend an appropriate funding level, the time period
21 for the authorization for appropriations from the fund, and
22 other appropriate legislative action to be undertaken upon
23 the expiration of the current fund authorization on Septem-
24 ber 30, 1981.

TITLE III

ADMINISTRATIVE PROVISIONS

SEC. 301. (a) The Historic Preservation Fund, established pursuant to section 108 of the Act of October 15, 1966 (referred to in section 201 (1)) shall be administered in accordance with the following provisions:

(1) For each fiscal year 1978 through 1981 not less than $7\frac{1}{2}$ per centum of any appropriations made to the fund shall be apportioned for matching grants-in-aid to the National Trust for Historic Preservation for its activities, in accord with section 101 (a) (3) of the Act of October 15, 1966.

(2) For each fiscal year 1978 through 1981 not more than 10 per centum of any appropriations made to the fund shall be held as contingency funds by the Council for dispersal to the States or to the National Trust for Historic Preservation for matching purposes in accord with section 101 (a) (3) of the Act of October 15, 1966, or in accord with the provisions of subsection 203 (5) of this Act, at the discretion of the Council. Any unexpended balances held pursuant to this subsection shall be reapportioned at the end of two full fiscal years: *Provided, That* (A) any proceeds from a conveyance of a property interest by the National Trust for Historic Preservation pursuant to subsection 203 (5)

1 shall be redeposited in the United States Treasury
2 and covered into the Council's contingency reserve ac-
3 count in the fund to the amount of the original fund
4 outlay and shall be available for dispersal by the Council
5 without fiscal year limitation, and (B) any excess over
6 the original fund outlay shall be retained by the National
7 Trust for Historic Preservation to further its congression-
8 ally established objectives.

9 (b) Notwithstanding any other provision of law, funds
10 authorized for activities under this Act may be used with
11 other Federal funds to achieve the purposes of this Act but
12 may not be used to match any other Federal funds.

13 SEC. 302. Each Federal agency shall—

14 (1) expend appropriated funds for the maintenance
15 of properties included in the National Register under its
16 jurisdiction or control and for the performance of the
17 other responsibilities in accordance with this Act, and

18 (2) include the costs of activities under this Act as
19 eligible project costs in all Federal, federally assisted,
20 and federally licensed undertakings. Such costs may in-
21 clude the reimbursement to the office of any State his-
22 toric preservation officer of up to 70 per centum of costs
23 not otherwise matched by Federal grant funds pursuant
24 to section 101 (a) of the Act of October 15, 1966, for
25 administrative and preservation review activities under-

1 taken at the request of Federal agencies in fulfillment
2 of their responsibilities for such properties and in ac-
3 cordance with regulations established by the Council.

4 SEC. 303. (a) So much of the personnel, property, rec-
5 cords, unexpended balances or appropriations, allocations,
6 and other funds held, used, programed, and available to or
7 to be made available to the Secretary from the fund; to the
8 National Park Service for its activities under its budget line
9 item "Preservation of Historic Properties"; and such addi-
10 tional funds and positions from other accounts of the Secre-
11 tary or the National Park Service related or in support of
12 activities under this Act as the Director of the Office of Man-
13 agement and Budget determines, shall be transferred from
14 the Department of the Interior to the Council within ninety
15 days after the effective date of this Act.

16 (b) Any employee in the competitive service of the
17 United States transferred to the Council under the provisions
18 of this section shall retain all rights, benefits, and privileges
19 pertaining thereto held prior to such transfer.

20 (c) There are hereby authorized to be appropriated to
21 the Council such funds as are necessary to carry out such
22 activities as the Council is authorized by Congress to under-
23 take until September 30, 1981.

1 SEC. 303. For the purposes of this Act—

2 (1) the term “agency” means “agency” as such
3 term is defined in section 551 of title 5, United States
4 Code;

5 (2) the term “Council” means the Council on His-
6 toric Preservation;

7 (3) the term “fund” means the Historic Preser-
8 vation Fund;

9 (4) the term “historic and cultural properties” in-
10 cludes historic, architectural, archeological, and cul-
11 tural properties;

12 (5) the term “National Register” means the Na-
13 tional Register of Historic Places;

14 (6) the term “Secretary” means the Secretary of
15 the Interior; and

16 (7) the term “State” means any State of the United
17 States, the District of Columbia, the Commonwealth
18 of Puerto Rico, and any territory or possession of the
19 United States.

A BILL

To establish a national policy for the preservation of historic, architectural, archeological, and cultural resources, to establish a coordinated national historic preservation program, and for other purposes.

By Mr. SEIBERLING

FEBRUARY 16, 1977

Referred to the Committee on Interior and Insular
Affairs